

EXHIBIT

INTRODUCTION

T-Bird Restaurant Group, Inc., a California corporation, is located in La Jolla, California. T-Bird Restaurant Group, Inc. has the exclusive right to own Outback franchises in the State of California and, at all times relevant to this matter, owned 60 restaurants.

On October 14, 2004, T-Bird Restaurant Group, Inc. received 57 \$2,000 contributions from 57 of the 60 restaurants. The \$114,000 collected was then contributed by T-Bird Restaurant Group, Inc. to Californians Against Government Run Healthcare, A Committee Against Proposition 72 on the same day. T-Bird Restaurant Group, Inc.'s actions qualified T-Bird Restaurant Group, Inc. as a primarily formed ballot measure committee and, as such, T-Bird Restaurant Group, Inc. incurred certain filing obligations under the Political Reform Act (the "Act").¹ These filing obligations included the timely filing of a statement of organization and a pre-election campaign statement. In addition, once Respondents received contributions totaling \$50,000 or more, they were required by to file reports online, including an electronic report for every individual contribution of \$1,000 or greater received.

After being contacted by the Enforcement Division, T-Bird Restaurant Group, Inc. registered as a sponsored primarily formed ballot measure committee on October 31, 2005, under the name T-Bird Restaurants Committee Opposing Proposition 72 ("Respondent T-Bird"). Mikkel Christensen was at all times the treasurer for Respondent T-Bird.

Respondent T-Bird's filing errors were discovered during an initial Enforcement Division investigation in August 2005 regarding a late contribution made in connection with the November 2, 2004 election. The investigation revealed that Respondent T-Bird was not required to file a late contribution report but was instead required to, and did not, file several other campaign statements and reports. While the investigation was pending, an audit of Respondent T-Bird by the Franchise Tax Board ("FTB") for the reporting period January 1, 2004 through December 31, 2004 was completed. During the audit period, Respondents reported receiving contributions totaling \$114,000, and making expenditures totaling \$114,000. The audit revealed that Respondent failed to file several required campaign statements and reports.

For the purposes of this Stipulation, Respondent T-Bird's violations of the Act are stated as follows:

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

- COUNT 1:** Respondents T-Bird Restaurants Committee Opposing Proposition 72 and Mikkel Christensen failed to file a statement of organization for Respondent T-Bird within 10 days of Respondent T-Bird qualifying as a recipient committee, in violation of Section 84101, subdivision (a) of the Government Code.
- COUNT 2:** Respondents T-Bird Restaurants Committee Opposing Proposition 72 and Mikkel Christensen failed to timely file a pre-election campaign statement by the October 21, 2004 due date for the period January 1, 2004, through October 16, 2004, in violation of Government Code Sections 84200.5 and 84200.7, subdivision (b).
- COUNT 3:** On October 14, 2004, during the 90-day period before an election, Respondents T-Bird Restaurants Committee Opposing Proposition 72 and Mikkel Christensen received 32 contributions of \$1,000 or more, in the amount of \$2,000 each after qualifying as an online filer, and failed to disclose them within 24 hours of receipt in an online campaign report, in violation of Section 85309, subdivision (b).

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that the contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish this purpose of disclosure.

Duty to File a Statement of Organization

Section 82013, subdivision (a), defines a “committee” to include any person who receives contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly known as a “recipient committee.” Under Section 82047.5, subdivision (b) a recipient committee is a primarily formed committee when it exists to support or oppose a single measure.

A recipient committee is required to file a statement of organization with the Secretary of State within 10 days of qualifying as such. (Section 84101, subd. (a).) The statement of organization must include the committee’s name, street address, and telephone number, if any. (Section 84102, subd. (a).) The statement of organization also must include the full name, street address, and telephone number, if any, of the treasurer and other principal officers of the committee. (Section 84102, subd. (c).)

Duty to File Pre-election Statements

Under Section 84200.5, a recipient committee is required to file pre-election campaign statements as specified in Sections 84200.7 and 84200.8 of the Act. Pre-election statements for a November election for the period ending October 16 are due no later than October 21. (Section 84200.7, subd. (b).) The period covered by any statement begins on the day after the closing date of the last statement filed or January 1, if no previous statement has been filed. (Section 82046.)

Duty to File Reports Online

In order to maximize the availability of information regarding campaign disclosure to the public, the Act requires candidates for elective state office to file campaign statements and reports online when contributions or expenditures reach \$50,000 or more. (Sections 84601 and 84605.)

Duty to Report Contributions Received During the Election Cycle of \$1,000 or More

During the election cycle, committees primarily formed to support or oppose one or more state ballot measures who meet the \$50,000 threshold and are therefore required to file online campaign reports under Section 84605 must file an online campaign report within 24 hours of receipt of every contribution of \$1,000 or more. (Section 85309, subd. (b).) The “election cycle” is the period of time commencing 90 days before the election and ending on the date of the election. (Section 85204.) The online campaign report must disclose specified information regarding the contribution and is not required to be filed in paper format. (*Ibid.*)

Liability of Committee Treasurers

Under Section 81004, subdivision (b), if a filer is an entity other than an individual, campaign statements and reports shall be signed and verified by a responsible officer of the entity or by an agent. Under Section 81004, subdivision (b), Section 84100, and Regulation 18427, subdivision (a), it is the duty of the committee’s treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. A committee’s treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sections 83116.5 and 91006.)

SUMMARY OF THE FACTS

T-Bird Restaurant Group, Inc., a California corporation, is located in La Jolla, California. T-Bird Restaurant Group, Inc. has the exclusive right to own Outback franchises in the State of California and, at all times relevant to this matter, owned 60 restaurants.

On October 14, 2004, T-Bird Restaurant Group, Inc. received 57 \$2,000 contributions from 57 of the 60 restaurants. The \$114,000 collected was then contributed by T-Bird Restaurant Group, Inc. to Californians Against Government Run Healthcare, A Committee Against Proposition 72 on the same day.

After being contacted by the Enforcement Division, T-Bird Restaurant Group, Inc. registered as a primarily formed ballot measure committee on October 31, 2005, under the name T-Bird Restaurants Committee Opposing Proposition 72 (“Respondent T-Bird”). Mikkel Christensen was at all times the treasurer for Respondent T-Bird. Respondent T-Bird has since terminated as a committee having had no other reportable activity.

COUNT 1

Failure to Timely File a Statement of Organization

On October 14, 2004, Respondent Committee qualified as a recipient committee by virtue of having received contributions of over \$1,000 for that calendar year. Once qualified as a recipient committee, Respondents had a duty to file a statement of organization within 10 days of October 14, 2004. Respondents failed to file a statement of organization within 10 days, instead filing the statement on October 31, 2005, after contact from the Enforcement Division.

By failing to timely file a statement of organization, Respondents violated Section 84101, subdivision (a).

COUNT 2

Duty to Timely File Pre-election Campaign Statements

Respondents failed to timely file a pre-election campaign statement for the period January 1, 2004 through October 16, 2004, which was due October 21, 2002. Respondents filed a statement on October 31, 2005, covering the period October 14, 2004 through December 31, 2004.

By failing to timely file a pre-election statement, Respondents violated Sections 84200.5 and 84200.7, subdivision (b).

COUNT 3

Failure to Report Contributions of \$1,000 or More Electronically

Since Respondents qualified a primarily formed ballot measure committee that received \$50,000 or more, they garnered online filing requirements. During the 90-day period before the November 2, 2004 General Election, Respondents were required to disclose each contribution of \$1,000 or more in an online campaign report filed within 24 hours of receipt. In this matter, on the same day, Respondents received 57 contributions of \$1,000 or more during the reporting period, totaling \$114,000. The first 25 contributions combined to meet the \$50,000 threshold for filing online. The other 32

contributions, each over \$1,000, were required to be disclosed within 24 hours of receipt in an online campaign report. The unreported contributions are shown in the following table.

	CONTRIBUTOR	AMOUNT
1	Upland Steakhouse	\$2,000
2	Poway Steakhouse	\$2,000
3	Torrance Steakhouse	\$2,000
4	Arcadia Steakhouse	\$2,000
5	Brea Steakhouse	\$2,000
6	Palm Desert Steakhouse	\$2,000
7	Lakewood Steakhouse	\$2,000
8	Northridge Steakhouse	\$2,000
9	Laguna Hills Steakhouse	\$2,000
10	San Bernardino Steakhouse	\$2,000
11	Palmdale Steakhouse	\$2,000
12	Valencia Steakhouse	\$2,000
13	Oxnard Steakhouse	\$2,000
14	Thousand Oaks Steakhouse	\$2,000
15	Irvine Steakhouse	\$2,000
16	Santa Barbara Steakhouse	\$2,000
17	Newport Steakhouse	\$2,000
18	Norwalk Steakhouse	\$2,000
19	Puente Hills Steakhouse	\$2,000
20	Foothill Ranch Steakhouse	\$2,000
21	Oceanside Steakhouse	\$2,000
22	Covina Steakhouse	\$2,000
23	Corona Steakhouse	\$2,000
24	Garden Grove Steakhouse	\$2,000
25	Mission Valley Steakhouse	\$2,000
26	Temecula Steakhouse	\$2,000
27	Victorville Steakhouse	\$2,000
28	Buena Park Steakhouse	\$2,000
29	South San Diego Steakhouse	\$2,000
30	Burbank Steakhouse	\$2,000
31	Ontario Steakhouse	\$2,000
32	Long Beach Steakhouse	\$2,000
	TOTAL	\$64,000

By failing to file online campaign reports disclosing contributions of \$1,000 or more received during the election cycle, as set forth above, Respondents violated Section 85309, subdivision (b).

CONCLUSION

This matter consists of three counts, which carry a maximum possible administrative penalty of Fifteen Thousand Dollars (\$15,000).

The administrative penalty imposed for contribution reporting violations has historically been determined on a case-by-case basis, and has varied depending on the circumstances. In this matter, the contributions were made near the time of the election and Respondent T-Bird did not file proper campaign statements until notified by the Enforcement Division, which was more than a year after the election. The ballot measure they opposed failed with 50.8% of the vote against the passage of the measure. Once Respondents were made aware that they qualified as a committee, they responded quickly to come into compliance with the requirements of the Act.

Regarding Count 1, the typical stipulated administrative penalty for failure to timely file a statement of organization has been toward the lower end of the applicable penalty range. This matter presents no facts with respect to this violation that warrant deviation from the typical stipulated administrative penalty. Therefore, a stipulated administrative penalty in the amount of \$2,000 is appropriate for this violation.

As to Count 2, the typical stipulated administrative penalty for failing to timely file a pre-election campaign statement has been in the mid-to-high end of the applicable penalty range, depending on the circumstances of the violation. In this matter, Respondent T-Bird filed a year after the election, but filed immediately once advised of their error. In addition, the ballot measure committee receiving the contribution filed a timely late contribution report, lessening the public harm. Therefore, a stipulated administrative penalty in the amount of \$2,000 is appropriate for this violation.

With regard to Count 3, there is only one prior enforcement matter that addresses the \$1,000 online reports. In that case, this reporting requirement was at first compared to the charging of the late contribution reporting requirement since it contemplates contemporaneous reporting of contributions received close in time to the election. However, the applicable reporting period, the 90-day period prior to the election, was differentiated since it is longer than the reporting period for late contributions and captures contributions made further from the election date. Therefore, the penalty amount of \$2,000 was considered to be appropriate. In this matter, Respondents failed to report 32 contributions, totaling \$64,000, all from its franchise restaurants. Thus, a stipulated administrative penalty of \$2,000 for this count is appropriate.

The facts of this case, including the aggravating and mitigating factors discussed above, justify imposition of the agreed upon penalty of Six Thousand Dollars (\$6,000).